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April 15, 2004

Dr. Mark Rohrbaugh  
Dir. of the Office of Technology Transfer  
Office of Intramural Research  
National Institutes of Health  
6011 Executive Blvd. Suite 325  
Rockville, MD 20852

Dear Dr. Rohrbaugh:

WARF will celebrate its 79<sup>th</sup> anniversary this year. We were one of the first university affiliated technology offices in the United States. Howard Bremer of WARF was instrumental in the development of the Bayh-Dole Act. Given this history we write to oppose the recent petitions filed by Mr. James Love and Mr. Sean Flynn of Essential Inventions, Inc. requesting the National Institutes of Health invoke the march-in provisions of the Bayh-Dole Act to invalidate exclusive drug patents held by Abbott Laboratories and Pfizer Inc.

The Bayh-Dole Act is a patent law and not a price control law. There is nothing in Bayh-Dole that gives the government authority to march-in to control prices. March-in rights are intended to insure development of important products that improve the human condition and add to the U.S. economy. The Act has achieved tremendous success. When Bayh-Dole was enacted in 1980, less than 30 universities had technology transfer programs. Today, there are over 300 university technology transfer programs that are using local ideas, contacts and initiatives to insure the development and use of federally supported research.

The granting of this petition would be a severe blow for all of the university technology transfer offices. The patent received by universities would be encumbered. The consequence of that would be to make it difficult if not impossible to license technologies to the private sector. The twenty-five years of Bayh-Dole success of partnerships between federal government, university research and private sector development could be lost. How ironic it would be if as countries all over the world are attempting to implement their version of Bayh-Dole, our government would make a decision that could destroy the program that these countries are attempting to implement.

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The Bayh-Dole Act is an important catalyst for university private sector collaborators. All sectors of our economy have benefited. Please do NOT take any actions that could put these benefits in jeopardy.

Sincerely,



Carl E. Gulbrandsen  
Managing Director

